



17-827

**TITLE:** Consider/Discuss/Act Upon Adoption of a Resolution Determining a Public Necessity to Acquire Certain Properties for Public Use by Eminent Domain for Right-of-Way (in Fee Simple), Drainage Easements, Water Line Easements, Access Easements and Temporary Construction Easements for the Construction, Access and Maintenance of the Trinity Falls Parkway Project and Related Infrastructure Commencing in the Vicinity of its Intersection with FM 543 and Continuing Southwesterly Along Trinity Falls Parkway to the Existing Connection to Laud Howell Parkway; Authorizing the City Manager to Establish Procedures for Acquiring the Right of Way (in Fee Simple) and Easements on Said Properties, and Take All Steps Necessary to Acquire the Needed Property Rights in Compliance with all Applicable Laws and Resolutions

**COUNCIL GOAL:** Direction for Strategic Growth

**MEETING DATE:** August 15, 2017

**DEPARTMENT:** Development Services / Engineering

**CONTACT:** Gary Graham, PE, Director of Engineering

**RECOMMENDED CITY COUNCIL ACTION:**

- Approval of Resolution using a motion in a form substantially similar to the following:

*"I move that the City of McKinney, Texas, City Council approve this item as written and adopt the Resolution described in this agenda item and authorize the use of the power of eminent domain to acquire for public use all necessary right-of-way (in fee simple) and easements from the owners of the properties depicted on and described by metes and bounds attached to said Resolution, said depictions and descriptions being incorporated in their entirety into this motion for all purposes including the construction, access and maintenance of the Trinity Falls Parkway Project and related Infrastructure commencing in the vicinity of its intersection with FM 543 and continuing southwesterly to the existing connection to Laud Howell Parkway."*

**ITEM SUMMARY:**

- This Resolution provides authority to the City Manager to execute documents for the acquisition of right-of-way (ROW) and easements; and the use of Eminent Domain to condemn property rights to construct Trinity Falls Parkway commencing in the vicinity of its intersection with FM 543 and continuing southwesterly to the existing connection with Laud Howell.

**BACKGROUND INFORMATION:**

- The City entered into a Development Agreement (Agreement) with the developers of the Trinity Falls Subdivision (Owner). Per the Agreement, Owner agreed to acquire the necessary property rights to construct certain capital improvements, including but not limited to roadways, waterlines and drainage facilities.
- In accordance with the Agreement, if after using reasonable efforts Owner is unable to acquire certain property rights, the City will cooperate with Owner, at the sole cost and expense of the Owner, to acquire the needed property rights including, but not limited to, exercising the City's power of eminent domain. The decision to exercise such power to be within the sole discretion of the City.
- Owner has been unsuccessful in securing all necessary property rights and has subsequently requested assistance from the City.
- Appraisals were completed and offer letters sent to the property owners, affected by the project, by the Law Firm of Brown & Hofmeister (B&H) on behalf of the Owner.
- In light of the counteroffers and responses received from the property owners, the City anticipates resistance in acquiring the necessary property rights.
- Negotiations have been ongoing with the property owners and Owner has been successful in acquiring a few of the necessary land rights.
- There are eight remaining property owners, identified below and in the attached Resolution as Exhibits B-1 through B-8, for which Owner has requested acquisition assistance from the City to purchase the necessary property rights in order to construct the project.
- Should the City agree to acquire the remaining ROW and easements through the initiation of eminent domain, the following is a list of the property owners and needed property rights (see attached project location map):

#	Property Owner	Description	Area/Acres	Exhibit
1	RL Trust	Drainage Easement	0.343	B1
		Temporary Construction	0.574	•
		Easement (TCE)		•

2	Estate of Tom B. Wilson, Sr.	Right of Way	0.087	B2
		Drainage Easement	0.336	•
		Water Line Easement	0.195	•
		TCE	0.617	•
3	Arch Resorts	Drainage Easement	0.367	B3
		TCE	0.635	•
4	NJV	Drainage Easement	0.334	B4
		TCE	0.530	•
5	Augspurger	Drainage Easement	0.498	B5
		Water Line Easement	0.345	•
		TCE	1.146	•
6	Monty Jackson	Right of Way	1.156	B6
		Drainage Easement	1.583	•
		Water Line Easement	0.690	•
		TCE	2.929	•
7	Nyberg	Drainage Easement	0.099	B7
		Drainage Easement	0.089	•
		Water Line Easement	0.239	•
		TCE	0.708	•
8	Grogean	Drainage Easement	0.006	B8
		Water Line Easement	0.011	•
		Water Line Easement	0.153	•
		TCE	0.771	•

- SB 18 allows a single resolution to be adopted if: (a) the motion indicates that the first record vote applies to all units of property to be condemned; and (b) the minutes of the City reflect that the first vote applies to all of those units. If two or more members of the City Council object to adopting a single resolution for all of the units of property, then a separate vote must be made for each unit.
- The City will continue to attempt to amicably acquire the necessary property rights from the landowners voluntarily through negotiations prior to filing an action in Eminent Domain.

#### **FINANCIAL SUMMARY:**

- In accordance with the Development Agreement, funds for the acquisition of land rights will be provided for by the Owner.

#### **BOARD OR COMMISSION RECOMMENDATION:**

- N/A

**SUPPORTING MATERIALS:**

[Resolution](#)

[Location Map](#)